



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
E-Mail: paoca@ptd.net

June 14, 1999

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JUN 15 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S. W.
Washington, DC 20554

Re: Petition of the California Public Utilities Commission
and the People of the State of California for Waiver to
Implement a Technology-Specific or Service-Specific
Area Code
NSD File No. L-99-36
CC Docket 96-98

Dear Ms. Salas:

Enclosed please find an original and four copies of the Comments of the Pennsylvania Office of Consumer Advocate for filing with the Commission in the above-referenced matters.

Please indicate your receipt of this filing on the additional copy provided and return to the undersigned in the enclosed self-addressed, postage prepaid, envelope. Thank you.

Sincerely yours,

Joel H. Cheskis
Assistant Consumer Advocate

Enclosure

cc: Al McCloud, Network Services Division

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of	:	NSD File No. L-99-36
Petition of the California Public Utilities	:	DA 99-929
Commission and the People of the State of	:	
California for a Waiver to Implement A	:	
Technology-Specific or Service-Specific	:	
Area Code	:	

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

**COMMENTS OF THE
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE**

I. Introduction

The Pennsylvania Office of Consumer Advocate ("OCA") hereby submits these Comments in support of the Petition of the California Public Utilities Commission and the People of the State of California for a Waiver to Implement a Technology-Specific or Service-Specific Area Code ("California Petition") as submitted to the Federal Communications Commission ("FCC" or "Commission") on April 23, 1999. The OCA is designated by Pennsylvania state law to represent public utility consumers before the Pennsylvania Public Utility Commission, federal agencies and state and federal courts. The OCA is actively involved in representing consumer interests in telecommunications issues in these venues. In particular, the OCA has represented the National Association of State Utility Consumer Advocates in the Number Resource Optimization Working Group in drafting the North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Methods which was submitted to the Common Carrier Bureau on

October 21, 1998¹ and is therefore familiar with the issues contained in the California Petition. Because the California Petition has important generic implications, the OCA submits these Comments to support the California Petition which the FCC summarized in the Public Notice of May 14, 1999 as follows:

On April 23, 1999, the California Public Utilities Commission and the People of the State of California ("Petitioners") filed a petition requesting a waiver of 47 C.F.R. §52.19(c) to allow the California Commission to implement a technology-specific or service-specific area code. Petitioners state that the California Commission is working diligently to find solutions to the numbering crisis in California, but that the California Commission cannot keep pace with the demand for number resources. The petitioners state that the request is being made to receive additional authority to maximize the options available to gain control of the ongoing number crisis California faces.

Notice at 1. The FCC specifically requested comment concerning the issues raised in the California Petition seeking a waiver to implement a technology-specific or service-specific area code. Notice at 1.

The OCA supports the California Petition that the FCC should allow the California Public Utilities Commission ("CPUC") to authorize technology-specific area code overlays. In support the OCA files these Comments.

¹ The OCA worked with many other parties through the Number Resource Optimization Working Group ("NRO-WG") to develop the initial report later approved by NANC.

II. Comments

A. Technology Specific Overlays Should Be An Option Available To State Commissions In Order To Avoid The Consumer Hardships Created By Persistent Area Code Changes For Customers.

The OCA encourages the FCC to allow state commissions to use technology specific area code overlays. The need to allow technology specific overlays arises from the frequency with which consumers are now experiencing the addition of area codes. Between 1961 and December, 1994 the number of assigned area codes increased from 118 to only 134; between December, 1994 to January, 1998 the assigned area codes increased from 134 to 235.² This accelerating addition of area codes was addressed by Mr. Alan Hasselwander, Chairman of the North American Numbering Council, to the Numbering Solutions 1998 Seminar. In that address he explained:

To say we have reached a crisis in numbering in the US is probably too strong a statement. But we are approaching a crisis, and one will occur if effective action is not taken now. Many states have and are facing a frequency of NPA exhaust unknown in the past, and commissions are taking the heat that goes with the costs imposed on consumers by number exhaust.

The OCA submits that Mr. Hasselwander is correct that we are at least approaching a numbering crisis, if we are not already in one. Technology specific overlays would be an effective means of resolving the need for additional area codes in many circumstances and provide relief for consumers from continued area code changes.

² Where Have All the Numbers Gone? Long-term Area Code Relief Policies and the Need for Short-term Reform, Economics and Technology, Inc. prepared for The Ad Hoc Telecommunications Users Committee and International Communications Association, March, 1998 at 3 (“ETI Study”).

The OCA submits that the cost of frequent area code changes upon consumers are substantial and could be avoided by the use of a technology specific overlay in many instances. A change in a consumer's area code often requires notifying family, friends and businesses of that change, and also reprinting stationery, advertising, etc. If callers are not aware of a new telephone number, important calls may not be completed. Reprogramming calling data bases and alarm monitoring devices can also be expensive. The costs of reprogramming network equipment for telecommunications carriers are also considerable. Thus, there are real costs imposed upon the public as a result of area code changes. These real costs are exacerbated given the expected depletion of the entire North American Numbering Plan ("NANP") in 2007.³ Complete exhaustion of the NANP could result in eleven or twelve digit dialing thus causing an entirely new set of real costs to consumers as well as a massive amplification of those costs noted above.

Consumers in California support using technology specific overlays as a method of avoiding the additional inconvenience, confusion and expense associated with frequent NPA⁴ relief. Support for technology specific overlays has come from consumers around the country.⁵ California currently

³ "North American Numbering Plan Exhaust Study," Submitted by North American Numbering Plan Administrator Lockheed Martin, April 22, 1999.

⁴ An NPA is an Number Planning Area commonly referred to as an area code. An NXX is the number of an exchange; i.e., a block of 10,000 numbers in an area code, such that a phone number can be identified as NPA-NXX-XXXX.

⁵ For example, in a proceeding before the Missouri Public Service Commission concerning area code relief for the 314 area code, many consumers volunteered that a technology specific overlay would be an appropriate alternative. In that proceeding, 39% of letters received by the Commission and the Missouri Office of Public Counsel expressed interest in a technology specific overlay, more specifically, a wireless overlay. In the Matter of the Investigation into the Exhaustion of Central Office Codes in the 314 Numbering Plan Area, Case No. TO-98-212, Order of August 4, 1998 at 24. The testimony at public hearings on the exhaust of the 314 area code

has 25 area codes and is estimated to have 41 by the end of 2002 if number conservation measures are not implemented, as 20 of the state's current area codes have been placed in jeopardy status by the NANP Administrator and some NXXs are assigned by lottery.⁶ The California Petition indicates that public ire about the increasing number of area codes is mounting and has led, in part, to a member of the California Legislature proposing a bill that would have triggered a moratorium on implementation of new area codes if enacted. California Petition, at 3. Additionally, the CPUC staff fields hundreds of communications from the public complaining bitterly about the number and pace of area codes changes taking place in California which has led some communities to file official protests. California Petition, at 4. As a result, the OCA suggests that the FCC should reconsider its prior prohibition on technology specific overlays where such overlays could avoid some of the costs associated with the implementation of new area codes.

B. Technology Specific Overlays Will Facilitate the States' Ability to Achieve Long-Term NPA Relief.

Technology specific overlays, such as a wireless overlay, would allow states to slow the rate of new code demand from existing NPAs. In California, there are approximately 45 facilities-based cellular carriers and 11 PCS providers, all of which need NXX codes so they can assign numbers to their customers. California Petition, at 3. Each carrier seeking to provide service statewide in California would need 8,000,000 numbers to begin offering service because there are 800 rate

included many customer comments suggesting a wireless overlay and much questioning as to why this option was not available.

⁶ Rohde, David, "FCC Looks to Avert New Phone Number Crisis." NetworkWorld, April 19, 1999.

centers in California. Id. Furthermore, the California Petition indicates that as of December 1, 1998, cellular phone companies were assigned 325 additional NXX codes while paging companies received 195. Id., at 5. In a recent Missouri case, the Missouri Public Service Commission established that wireless carriers accounted for approximately 30% of the assigned numbers in the NPA.⁷ Based on specific carrier projections of 1998 and 1999 NXX code demand, the Missouri Office of Public Counsel developed a forecast of wireless NXX demand which indicated that 49 NXX codes over that two year period could be saved by assigning additional wireless codes from a wireless area code overlay.⁸

Currently, wireline providers serve customers through facilities that are tied to a specific geographic location. Commercial Mobile Radio Service (“CMRS”) providers are not bound by the traditional geographic servicing areas of incumbent local companies. Wireless carriers may provide service to their entire serving area from a single or a few locations within that area where they interconnect with the facilities of wireline providers. Wireless carriers are assigned NXX codes based upon those exchanges where interconnection occurs, but the use of those NXX codes is not limited to a single exchange. Wireless carriers have the ability to adjust their code requests once a geographic split boundary has been identified. Thus, wireless carriers have the opportunity to choose in which area code they will locate their NXX codes.

⁷ In the Matter of the Investigation into the Exhaustion of Central Office Codes in the 314 Numbering Plan Area, Case No. TO-98-212, Order of August 4, 1998.

⁸ The Missouri Office of Public Counsel also determined that wireless carriers had actually used a large number of the NPA-NXX codes that had been assigned at the time of the study. Wireline carriers had used 386 of the NXX codes, while wireless carriers had used 160 of the NXX codes. Other NXX codes could not be assigned, e.g. NXX codes within the 000-199 blocks, leaving only 204 NXX codes available for assignment.

The number exhaust problem is aggravated by the rapid growth in availability and demand for wireless technologies in urban areas and an increasing number of wireless providers and agents for these providers. Thus, wireless providers may quickly deplete NXX codes available in a particular urban NPA by concentrating their NXX requests in that area. This can have the effect of quickly exhausting an area code soon after it is created. By allowing state commissions to adopt wireless overlays and assigning wireless NXX codes from that overlay, the FCC will promote the ability of states to ensure longer-term relief measures by extending the life of a particular geographic split while simultaneously allowing wireless carriers to concentrate their NPA-NXX requests in that same area.

C. Technology Specific Service Providers Continue To Provide A Distinct Form Of Telecommunications Service From That Offered By Other Service Providers, Are Not Competing For The Same Service, And Different Area Code Options Should Be Allowed For Those Technology Specific Carriers.

1. Lack Of Local Competition.

The OCA submits that very little competition exists between some service providers, namely wireless and wireline service providers in many states. This fact is important considering that the FCC has based its earlier prohibition against an area code specifically for wireless service providers based upon the assumption that such a technology specific overlay would discriminate against wireless service providers. In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, Declaratory Ruling and Order, 10 FCC Rcd. 4596, 4608 (1995) (“Ameritech Order”); In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd. 19392, 19518 (1996) (“Second Report and Order”). The reasoning behind these

rulings appears to have been that placing wireless carriers into a different area code than that used by wireline carriers would discourage consumers from switching their service from a wireline to a wireless carrier.

In the years following those Orders, it has become increasingly apparent that there is little, if any, local service competition taking place between wireless and wireline carriers. Customers do not choose between wireless and wireline services. Generally, wireline service remains the basic service of choice for residential and business customers, while wireless is chosen as an additional service to be used when a consumer is away from home or business. Thus, the advantage that was to accrue to consumers in the form of competition between wireline and wireless providers, has not occurred. Even so, the restrictions imposed by the FCC have created another disadvantage for wireline consumers, i.e. the proliferation of area codes.

2. Prohibition of Technology Specific Overlays Has Harmed Local Competition.

Moreover, the OCA shares the FCC's goal that numbering administration, as well as other regulatory policies, should encourage competition for local telephone service. However, the FCC's prohibition against a technology specific overlay has served to retard - not promote - the growth of local competition. The OCA emphasizes that the prohibition against a technology specific overlay has served to delay the provision of area code relief to many competitive local exchange carriers ("CLECs") where NPA-NXX codes are otherwise unavailable. The application of a technology specific overlay would provide technology specific carriers additional NPA-NXX codes and allow CLECs a greater opportunity to use NPA-NXX codes otherwise available in existing NPAs.

Not being able to apply a technology specific overlay, state commissions have been left with the options of splitting area codes into ever smaller geographic areas or applying area code overlays

for the required use of wireline carriers.⁹ The OCA notes that California is currently undergoing its seventh technology neutral overlay with the introduction of the 764 area code over the 650 area code in Northern California.¹⁰ Having only these options available, area code relief has often taken considerable time to implement. Determining where an area code should be split has often been difficult and resulted in delays in implementing such geographic splits. Applying an area code overlay also frequently requires delay due to the need to implement 10 digit dialing for all calls and results in competing CLECs receiving NPA-NXX codes in a new, more unfamiliar overlay area code. Where CLECs require new NPA-NXX codes to begin competing, the prohibition against wireless overlays has often meant delays in the local competition that the FCC wishes to promote.

3. Delay in Wireless Local Number Portability Supports the Need for Technology Specific Overlays.

The OCA also understands that the FCC has postponed the deadline for wireless carriers to provide Local Number Portability (“LNP”) until November, 2002. In the Matter of Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, WT Docket No. 98-229, CC Docket No. 95-116, February 9, 1999 at ¶ 1. The OCA submits that one of the factors that the FCC used to support this decision was the lack of wireless/wireline competition in the

⁹ In many instances, state commissions have exempted technology specific carriers from having to change their telephone numbers to the new area code. Thus, technology specific carriers have often been treated preferentially and avoided the hardships imposed upon wireline consumers.

¹⁰ “Northern California’s 650 Area Code to Receive New 764 Overlay Code; Phone Numbers to be Assigned to State’s 7th Overlay on Sept. 16, 2000,” Lockhead Martin IMS, May 3, 1999.

telecommunications market today. Unfortunately, the LNP delay has meant that wireless carriers will not be able to support the pooling of NPA-NXX codes until 2002. This will further aggravate the difficulty that states will have in avoiding the addition of new area codes. Additionally, in California, one group of wireless carriers has removed itself from participation in a number pooling solution by virtue of the extension of time the FCC granted wireless providers to implement LNP. California Petition, at 6.

Accordingly, it would seem appropriate that – even as wireless carriers cannot contribute any portion of their NPA-NXX codes through pooling in order to avoid additional area codes – they should be required to take NPA-NXX codes from a separate NPA. The OCA recognizes and accepts the fact that wireless carriers will not be able to use LNP based pooling in the immediate future. However, states should then be able to segregate wireless demand into a separate area code as a result.

4. Technology Specific Consumers Are Not Affected By Many Of The Same Concerns Associated With Area Code Changes For Other Consumers.

The OCA suggests that allowing state commissions to choose technology specific overlays to provide further NPA-NXX codes to technology specific providers would be an appropriate method to address the competitive concerns of all parties affected. A technology specific overlay should allow technology specific carriers to receive NPA-NXX codes needed by other carriers as those industries continue to grow.

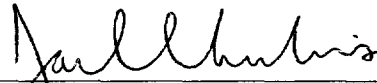
The OCA suggests that the delays related to splitting existing area codes and uncertainty related to the imposition of a new and unfamiliar area code overlay should not be considered as factors discouraging the application of new overlay area code for technology specific carriers.

Simply applying technology specific overlays would not raise the problems now encountered with a geographic split. The OCA therefore supports the California Petition which would allow the CPUC the flexibility to choose to implement a technology specific overlay.

III. Conclusion

The Pennsylvania Office of Consumer Advocate submits that the California Public Utility Commission has stated "good cause" for the FCC to grant it the necessary authority to implement technology specific overlays and requests the FCC review these Comments as it considers what actions to take concerning the Petition of the California Public Utilities Commission and the People of the State of California for a Waiver to Implement a Technology-Specific or Service-Specific Area Code.

Respectfully submitted,



Philip R. McClelland, Esquire
Joel H. Cheskis, Esquire
Assistant Consumer Advocates

For: Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
Office of Attorney General
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923

Dated: June 14, 1999

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and the People of the State of California for a Waiver to
Implement a Technology-Specific or Service-Specific Area Code
NSD File No. L-99-36
CC Docket 96-98

I hereby certify that I have this day served a true copy of the foregoing document,
Comments, upon parties of record in this proceeding.

Dated this 14th day of June, 1999.

Respectfully submitted,



Joel H. Cheskis
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048